

§ 171.3 Definitions.

Terms used in this part have the same meanings they have in FIFRA and 40 CFR part 152. In addition, the following terms have the meaning specified in this section when used in this part:

Agricultural commodity means any plant, fungus, or algae, or part thereof, or any animal or animal product, produced by a person (including, but not limited to, farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

Agency means the U.S. Environmental Protection Agency (EPA), unless otherwise specified.

Application and *applying* means the dispersal of a pesticide on, in, at, or directed toward a target site.

Applicator means any individual using a restricted use pesticide. An applicator may be certified as a commercial or private applicator as defined in FIFRA or may be a noncertified applicator as defined in this part.

Calibration means measurement of dispersal or output of application equipment and adjustment of such equipment to establish a specific rate of dispersal and, if applicable, droplet or particle size of a pesticide, and/or equalized dispersal pattern.

Certification means a certifying authority's issuance, pursuant to this part, of authorization to a person to use or supervise the use of restricted use pesticides.

Certifying authority means the Agency, or a State, Tribal, or Federal agency that issues restricted use pesticide applicator certifications pursuant to a certification plan approved by the Agency under this part.

Compatibility means the extent to which a pesticide can be combined with other chemicals without causing undesirable results.

Competency means having the practical knowledge, skills, experience, and judgment necessary to perform functions associated with restricted use pesticide application without causing unreasonable adverse effects, where the

nature and degree of competency required relate directly to the nature of the activity and the degree of independent responsibility.

Dealership means any establishment owned or operated by a restricted use pesticide retail dealer where restricted use pesticides are distributed or sold.

Fumigant means a restricted use pesticide that bears labeling designating it as a fumigant.

Fumigation means the use of a fumigant.

Immediate family means familial relationships limited to the spouse, parents, stepparents, foster parents, father-in-law, mother-in-law, children, stepchildren, foster children, sons-in-law, daughters-in-law, grandparents, grandchildren, brothers, sisters, brothers-in-law, sisters-in-law, aunts, uncles, nieces, nephews, and first cousins. "First cousin" means the child of a parent's sibling, *i.e.*, the child of an aunt or uncle.

Indian country means:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation.

(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State.

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Indian Tribe or *Tribe* means any Indian or Alaska Native Tribe, band, nation, pueblo, village, or community included in the list of Tribes published by the Secretary of the Interior pursuant to the Federally Recognized Indian Tribe List Act.

Mishap means an event that adversely affects man or the environment and that is related to the use or presence of a pesticide, whether the event was unexpected or intentional.

Nontarget organism means any plant, animal or other organism other than the target pests that a pesticide is intended to affect.

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Noncertified applicator means any person who is not certified in accordance with this part to use or supervise the use of restricted use pesticides in the category appropriate to the type of application being conducted in the pertinent jurisdiction, but who is using restricted use pesticides under the direct supervision of a person certified as a commercial or private applicator in accordance with this part.

Ornamental means trees, shrubs, flowers, and other plantings intended primarily for aesthetic purposes in and around habitations, buildings and surrounding grounds, including residences, parks, streets, and commercial, industrial, and institutional buildings.

Personal protective equipment means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respirators, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

Practical knowledge means the possession of pertinent facts and comprehension sufficient to properly perform functions associated with use of restricted use pesticides, including properly responding to reasonably foreseeable problems and situations.

Principal place of business means the principal location, either residence or office, where a person conducts a business that involves the use of restricted use pesticides. A person who applies restricted use pesticides in more than one State or area of Indian country may designate a location within a State or area of Indian country as its principal place of business for that State or area of Indian country.

Regulated pest means a particular species of pest specifically subject to Tribal, State or Federal regulatory restrictions, regulations, or control procedures intended to protect the hosts, man and/or the environment.

Restricted use pesticide means a pesticide that is classified for restricted use under the provisions of section 3(d) of FIFRA and 40 CFR part 152, subpart I.

Restricted use pesticide retail dealer means any person who distributes or

sells restricted use pesticides to any person, excluding transactions solely between persons who are pesticide producers, registrants, wholesalers, or retail sellers, acting only in those capacities.

Toxicity means the property of a pesticide that refers to the degree to which the pesticide, and its degradates and metabolites, are able to cause an adverse physiological effect on an organism.

Use, as in "to use a pesticide" means any of the following:

(1) Pre-application activities involving mixing and loading the pesticide.

(2) Applying the pesticide, including, but not limited to, supervising the use of a pesticide by a noncertified applicator.

(3) Other pesticide-related activities, including, but not limited to, transporting or storing pesticide containers that have been opened, cleaning equipment, and disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, and other pesticide-containing materials.

Use-specific instructions means the information and requirements specific to a particular pesticide product or work site that an applicator needs in order to use the pesticide in accordance with applicable requirements and without causing unreasonable adverse effects.

[82 FR 1028, Jan. 4, 2017]

§ 171.5 Effective date.

(a) This part is effective March 6, 2017. Certification plans approved by EPA before the effective date remain approved except as provided in §§ 171.5(b)–(d) and 171.309.

(b) *Status of certification plans approved before effective date.* A certification plan approved by EPA before March 6, 2017 remains approved until March 4, 2020, except as provided in paragraph (c) of this section and § 171.309.

(c) *Extension of an existing plan during EPA review of proposed revisions.* If by March 4, 2020, a certifying authority has submitted to EPA a proposed modification of its certification plan pursuant to subpart D of this part, its certification plan approved by EPA before March 6, 2017 will remain in effect until EPA has approved or rejected the